Annex "A," Subparagraph 2d,
Political Background

LAW AND ORDER

I. CRIMINAL CODES AND PROCEDURES

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671 The Criminal Code of the Republic of China was first enacted on March 10, 1928 and revised on January 1, 1935. The revised text came into force on July 1, 1935. The main provisions of the Chinese Criminal Code may be stated as follows:

A. Individual Responsbility. No person shall be held guilty of an offense not expressly covered in the Criminal Code. Chinese jurisprudence does not tolerate the principle of collective responsibility prevailing during the Japanese occupation, under which the family or the village could be held to share in the guilt of any of its members, fathers were punished with their sons for crimes committed by their sons, or the village leader was punished for an offense of a villager.

B. Criminal Liability. An unpremeditated or negligent act shall not be punishable except when specifically made punishable by law. As to the capacity to commit a premeditated crime, insofar as age is concerned, it is provided in the Criminal Code than an act committed by someone under fourteen years of age is not subject to punishment. Where

681 the offender is over fourteen and under eighteen
671 years of age, the sentence may be reduced. Likewise, a person judged to be insane is not held accountable for his acts. When a criminal act is committed by a person who is feeble-minded, the sentence may be reduced.[1] The Chinese Criminal Code has adopted the principle that the prevention of crime is more important than its punishment. Preventative laws require that juvenile delinquents be detained in reformatories for rehabilitation, insane persons be kept in some appropriate institution for their own protection, opium addicts and habitual drunkards be sent to hospitals for cure, and vagrants be compelled to work.[2] The government is now drafting a set of laws concerning juvenile delinquency, but has not yet presented the statutory bill to the Legislative Yuan for discussion and approval.

C. Suspension of Sentence. The Criminal Code also permits suspension of punishment and conditional release. Whoever during the execution of a sentence of imprisonment shows evidence of repentance may, after having served ten years of his sentences in cases of imprisonment for life or after having served

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1. Articles 18 and 19, Criminal Code, 1935.

2. Wen-yu Tsao, "The Development of Chinese Law," Free China Review, Vol. 3, No. 10, Oct. 1953, pp. 29-31.

681 half of his sentence in cases of imprisonment
671 for a lesser period, be granted conditional release upon application of the prison authorities to the highest judicial administration. The sphere of conditional release has been enlarged by a series of measures controlling convicts, which took effect on August 23, 1954.

The Code of Criminal Procedure was promulgated by the Nationalist Government on January 1, 1935, and enforced on July 1, 1935. The main features of the code may be stated as follows:

693 A. Public Prosecution. The procurator rep-
671 resents the state. He institutes public prosecution when the evidence obtained during preliminary investigation is sufficient to warrant suspicion of the accused. Public trial may be instituted even if the whereabouts of the accused is unknown.

The Code of Criminal Procedure provides that no complaint may be filed charging offenses against morality or the institutions of marriage and the family except by a particular party such as the lineal descendants by blood of the parties concerned or the spouse, as specified in the code.[3] A procurator need not prosecute cases involving offenses he considers obviously trivial and pardonable.

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3. Articles 230, 239, 240, Criminal Code, 1935.